

§ 1301.51

person shall make a written request to the Manager, Media Relations for such additional transcripts, electronic recordings, or minutes or portions thereof as that person believes should have been made available under paragraph (b) of this section and shall set forth in the request the reasons why such additional material is required to be made available with sufficient particularity for the Manager, Media Relations to determine the validity of such request. Promptly after a request pursuant to this paragraph is received, the Manager, Media Relations or his/her designee shall make a determination as to whether to comply with the request, and shall immediately give written notice of the determination to the person making the request. If the determination is to deny the request, the notice to the person making the request shall include a statement of the reasons for the denial, a notice of the right of the person making the request to appeal the denial to TVA's Senior Vice President, Communications and Employee Development, and the time limits thereof.

(d) If the determination pursuant to paragraph (c) of this section is to deny the request, the person making the request may appeal such denial to TVA's Senior Vice President, Communications and Employee Development. Such an appeal must be taken within 30 days after the person's receipt of the determination by the Manager, Media Relations and is taken by delivering a written notice of appeal to the Senior Vice President, Communications and Employee Development, Tennessee Valley Authority, Knoxville, Tennessee 37902-1499. Such notice shall include a statement that it is an appeal, from a denial of a request under §1301.48(c) and the Government in the Sunshine Act and shall indicate the date on which the denial was issued and the date on which the denial was received by the person making the request. Promptly after such an appeal is received, TVA's Senior Vice President, Communications and Employee Development or the Senior Vice President's designee shall make a final determination on the appeal. In making such a determination, TVA will consider whether or not to waive the provisions of any exemption

18 CFR Ch. XIII (4-1-08 Edition)

contained in §1301.46. TVA shall immediately give written notice of the final determination to the person making the request. If the final determination on the appeal is to deny the request, the notice to the person making the request shall include a statement of the reasons for the denial and a notice of the person's right to judicial review of the denial.

(e) Copies of materials available for public inspection under this section shall be furnished to any person at the actual cost of duplication or transcription.

[42 FR 14086, Mar. 15, 1977. Redesignated at 44 FR 30682, May 29, 1979, and amended at 56 FR 55452, Oct. 28, 1991]

Subpart D—Testimony by TVA Employees, Production of Official Records, and Disclosure of Official Information in Legal Proceedings

SOURCE: 72 FR 60548, Oct. 25, 2007, unless otherwise noted.

§ 1301.51 Purpose and scope.

(a) *Purpose.* This part sets forth the procedures to be followed when TVA or a TVA employee is served with a demand to provide testimony and/or produce or disclose official information or records in a legal proceeding in which TVA or the United States is not a party, and where such appearance arises out of, or is related to, the individual's employment with TVA.

(b) *Scope.* This part applies when, in a judicial, administrative, legislative, or other legal proceeding, a TVA employee is served with a demand to provide testimony concerning information acquired in the course of performing official duties or because of official status and/or to produce official information and/or records.

§ 1301.52 Definitions.

The following definitions apply to this part:

(a) *Appearance* means testimony or production of documents or other material, including an affidavit, deposition, interrogatory, declaration, or other required written submission.

Tennessee Valley Authority

§ 1301.54

(b) *Demand* means a subpoena, order, or other demand of a court of competent jurisdiction, or other specific authority (e.g. an administrative or State legislative body), for the production, disclosure, or release of TVA records or information or for the appearance of TVA personnel as witnesses in their official capacities.

(c) *Employee* means any members of the Board of Directors, officials, officers, directors, employees or agents of TVA, except as TVA may otherwise determine in a particular case, and includes former TVA employees to the extent that the information sought was acquired in the performance of official duties for TVA.

(d) *General Counsel* means the General Counsel of TVA or a person to whom the General Counsel has delegated authority under this part.

(e) *Legal proceeding* means any and all pre-trial, trial, and post-trial stages of all judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards, or other judicial or quasi-judicial bodies or tribunals, whether criminal, civil, or administrative in nature.

(f) *Records or official records and information* means all information in the custody and control of TVA, relating to information in the custody and control of TVA, or acquired by a TVA employee in performance of his or her official duties or because of his or her official status while the individual was employed by TVA.

(g) *Testimony* means any written or oral statements, including depositions, answers to interrogatories, affidavits, declarations, interviews, and statements made by an individual in connection with a legal proceeding.

§ 1301.53 General.

(a) No employee shall appear, in response to a demand for official records or information, in any proceeding to which this part applies to provide testimony and/or produce records or other official information without prior authorization as set forth in this part.

(b) This part is intended only to provide procedures for responding to demands for testimony or production of records or other official information,

and is not intended to, does not, and may not be relied upon to, create any right or benefit, substantive or procedural, enforceable by any party against TVA and the United States.

§ 1301.54 Requirements for a demand for records or testimony.

(a) *Service of demands.* Only TVA's General Counsel or his/her designee is authorized to receive and accept demands sought to be served upon TVA or its employees. All such documents should be delivered in person or by United States mail to the Office of the General Counsel, Tennessee Valley Authority, 400 W. Summit Hill Drive, Knoxville, Tennessee 37902.

(b) *Time limit for serving demands.* The demand must be served at least 30 days prior to the scheduled date of testimony or disclosure of records, in order to ensure that the General Counsel has adequate time to consider the demand and prepare a response, except in cases of routine requests for personnel and payroll records located on-site in Knoxville, where service 15 days prior will normally be considered sufficient. The General Counsel may, upon request and for good cause shown, waive the requirement of this paragraph.

(c) *Form of Demand.* A demand for testimony or production of records or other official information must comply with the following requirements:

(1) The demand must be in writing and submitted to the General Counsel.

(2) The demand must include the following information:

(i) The caption of the legal proceeding, docket number, and name and address of the court or other authority involved.

(ii) If production of records or other official information is sought, a list of categories of records sought, a detailed description of how the information sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the records sought.

(iii) If testimony is sought, a description of the intended use of the testimony, a detailed description of how the testimony sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the testimony sought.